



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Molly Joseph Ward
Secretary of Natural Resources

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STATE WATER CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO

Virginia Electric and Power Company d/b/a Dominion Virginia Power

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.34:20, between the State Water Control Board and Virginia Electric and Power Company d/b/a Dominion Virginia Power, for the purpose of resolving certain violations of the State Water Control Law and the applicable regulations.

SECTION B: Definitions

Unless the context indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
2. "Containment and cleanup" means abatement, containment, removal and disposal of oil and, to the extent possible, the restoration of the environment to its existing state prior to an oil discharge.
3. "Crystal City Substation" means the facility, land, road, storm drain(s) or state water(s) where the oil discharge occurred located at 18th Street South and South Fern Street, Arlington Virginia 22203; associated with PC#2016-3142/IR#'s 2016-N-2169 and 2016-N-2266.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying or dumping.
7. "Dominion" means Virginia Electric and Power Company d/b/a Dominion Virginia Power, a Virginia public service corporation with its principal place of business at 120 Tredegar St., Richmond, VA 23219. Dominion is a "person" within the meaning of Va. Code § 62.1-44.3.
8. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
9. "Oil" means oil of any kind and in any form, including, but not limited to, petroleum and petroleum by-products, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oils and all other liquid hydrocarbons regardless of specific gravity. *See* Va. Code §62.1-44.34:14.
10. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
11. "Person" means any firm, corporation, association or partnership, one or more individuals, or any governmental unit or agency thereof.
12. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 11 (Va. Code §§ 62.1-44.34:14 through 62.1-44.34:23) of the State Water Control Law addresses discharge of oil into waters.
13. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
14. "West Staunton Substation" means the facility, land, road, storm drain(s) or state water(s) where the oil discharge occurred located at 2332 Churchville Avenue, Augusta County, Virginia; Associated with IR# 2016-V-2036.
15. "Va. Code" means the Code of Virginia (1950), as amended.
16. "VAC" means the Virginia Administrative Code.

SECTION C: Findings of Fact and Conclusions of Law

West Staunton Substation

1. On January 6, 2016, Dominion notified DEQ that approximately 9,000 gallons of non-PCB mineral oil had been discharged from a transformer at the West Staunton Substation. A portion of the oil entered an unnamed tributary of Bell Creek (a state water), and also flowed into a farm pond. Containment and cleanup efforts were immediately initiated. Response efforts contained the mineral oil to the upstream half of the farm pond.
2. Va. Code § 62.1-44.34:18 prohibits the discharge of oil into or upon state waters, lands, or storm drain systems that violate applicable water quality standards or cause a film or sheen upon or discoloration of the surface of the water.
3. On January 12, 2016, DEQ issued a Notice of Violation (No. 16-01-VRO-001) to Dominion for a discharge of oil to the land and state waters that occurred at the West Staunton Substation.
4. On February 22, 2016, Dominion's investigation revealed that much of the mineral oil remained within the Substation fence line, which has a gravel base. Some of the mineral oil exited the Substation fence line across approximately 50 feet of agricultural field and entered an intermittent, unnamed tributary to Bell Creek. The tributary flows for approximately 100 feet into a farm pond. DEQ determined that the discharge resulted in impacts to an unnamed tributary to Bell Creek, a neighboring property, and an agricultural farm pond.
5. On March 2, 2016, Dominion submitted a containment and cleanup plan to DEQ for review and approval detailing the strategy for final restoration of the site.
6. On May 5, 2016, Dominion notified DEQ that the containment and cleanup efforts were completed. On May 12, 2016, DEQ performed a site inspection and required additional restoration to stabilize the site and provide permanent vegetative cover.

Crystal City Substation

7. On January 24, 2016, Dominion notified DEQ that approximately 13,500 gallons of non-PCB mineral oil had been discharged from a transformer at the Crystal City Substation. On February 3, 2016, oil was observed in Roaches Run (a state water), the Roaches Run Waterfowl Sanctuary and subsequently in a storm drain system.
8. Va. Code § 62.1-44.34:18 prohibits the discharge of oil into or upon state waters, lands, or storm drain systems that violate applicable water quality standards or cause a film or sheen upon or discoloration of the surface of the water.

9. On February 19, 2016, DEQ issued a Notice of Violation (No. W2016-02-N-001) to Dominion for a discharge of oil to the land and state waters that occurred at the Crystal City Substation.
10. On February 26, 2016, Dominion submitted an initial abatement report. On August 31, 2016, Dominion submitted a Site Characterization Report.
 - a. Dominion's investigation revealed that, although a majority of the oil was either contained in an underground vault system or underground electrical troughs for the transformer, these areas were not sealed. The absence of sealing may have acted as the pathway outside of the substations, resulting in a discharge to lands, storm drain systems, and state waters. DEQ determined that the discharge resulted in impacts to Roaches Run, storm drain systems, and impacts to birds and other wildlife.
11. Based on the results of DEQ's inspections, and the documentation submitted by Dominion, the Board concludes that Dominion has violated Va. Code § 62.1-44.34:18, which prohibits the discharge of oil into or upon state waters, lands, or storm drain systems, as described above.
12. In order for Dominion to complete its return to compliance, DEQ staff and representatives of Dominion have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 62.1-44.34:20, the Board orders Dominion and Dominion agrees to:

1. Perform the actions described in Appendix A of this Order;
2. Pay a civil charge of \$259,535 within 30 days of the effective date of the Order in settlement of the violations cited in this Order; and
3. Reimburse DEQ \$5,882.80 for oil discharge investigative costs within 30 days of the effective date of the Order;

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Dominion shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Petroleum Storage Tank Fund (VPSTF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Dominion shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Dominion for good cause shown by Dominion or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. 16-01-VRO-001 dated January 12, 2016 and NOV No. W2016-02-N-001 dated February 19, 2016. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Dominion admits to the jurisdictional allegations, and agrees not to contest, but neither admits nor denies, the findings of fact and conclusions of law in this Order.
4. Dominion consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Dominion declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Dominion to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority. Dominion does not waive any rights or objections it may have in any enforcement action by other federal, state, or local authorities arising out of the same or similar facts to those recited in this Order.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Dominion shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Dominion shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Dominion shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and Dominion. Nevertheless, Dominion agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

- a. The Director or his designee terminates the Order after Dominion has completed all of the requirements of the Order;
- b. Dominion petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Dominion

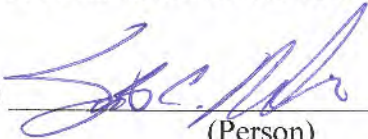
Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Dominion from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Dominion and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Dominion certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Dominion to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Dominion.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Dominion voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2016.

Jefferson Reynolds
Director of Enforcement
Department of Environmental Quality

Dominion voluntarily agrees to the issuance of this Order.

Date: 10/10/2016 By: , VP-Transmission
(Person) (Title)

Commonwealth of Virginia

City/County of Richmond

The foregoing document was signed and acknowledged before me this 10th day of

October, 2016, by Scott C. Miller who is

VP - Transmission of Dominion on behalf of the corporation.

[Signature]
Notary Public

222169
Registration No.

My commission expires: July 31, 2020

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

Dominion shall perform the following actions:

1. Crystal City Substation

a. Monitoring

i. Monitoring well sampling.

1. Monitoring shall occur between October 15 and October 31, 2016 and between January 15 and January 31, 2017. Results shall be reported in a brief Post-Site Characterization Monitoring Report.

a. Each monitoring event must include:

- i. Gauging each well for measurable free product;
- ii. Recording of water levels and preparation of a map showing groundwater flow direction;
- iii. Collection of a water sample from each well, with analysis for TPH-DRO, TPH-ORO and BTEX/naphthalene.

2. Staunton Substation

- a. By **December 01, 2016**, Dominion shall continue to exclude cattle from the excavated area and re-seed in order to establish a permanent vegetative cover.
- b. By **May 1, 2017**, Dominion shall submit photographic evidence documenting that the excavated area has been stabilized.
 - i. In the event that the excavated area has not achieved a permanent vegetative cover sufficient to prevent erosion, then Dominion shall so advise DEQ and submit to DEQ for review and approval an alternative restoration plan for DEQ approval. Once approved by DEQ, the alternative restoration plan shall then be implemented by Dominion in accordance with the schedule set forth in therein.

3. Contact

Unless otherwise specified in this Order, Dominion shall submit all requirements of Appendix A of this Order to:

**Department of Environmental Quality
Division of Enforcement
PO Box 1105
Richmond VA 23218**